

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11 OF 2005

Mohanish Omprakash Arora & Anr

...Petitioners

VERSUS

Central Bank of India & Ors.

...Respondents.

Ms. Gauri Godse for the Petitioners.

None for the Respondents.

**CORAM: DALVEER BHANDARI, C.J., &
S. A. BOBDE, J.**

DATED: JANUARY 11, 2005.

P.C.:

1. This petition has been filed by the guarantors to the loan,
who have executed the letter of guarantee dated 17th
February, 2000.

2. The Central Bank of India issued a notice to the petitioners and the principal borrowers, calling upon them to pay the balance loan amount of Rs. 3,72,56,318.91 and interest at 18% per annum from 1st July, 2003 on 4th July, 2003. The petitioners, who were defendant Nos. 6 and 7 before the Debts Recovery Tribunal, Pune, filed an application under Order VII, Rule 11, of the Code of Civil Procedure for dismissing O.A. No. 218 of 2003 filed by the bank. In the application, it is alleged that the petitioners were the guarantors to the alleged transaction between the bank and the principal borrowers, and the original application against the defendants is not maintainable. That application was rejected by the Tribunal at Pune. Against that, the petitioners preferred Miscellaneous Appeal No. 253 of 2004 before the Debts Recovery Appellate Tribunal. The Appellate Tribunal observed that having gone through the averments made in the original application, it cannot be said that no cause of action is disclosed against the appellants (petitioners herein), who have been sued in their capacity as guarantors.

Miscellaneous Appeal No. 253 of 2004 was accordingly dismissed by the Debts Recovery Appellate Tribunal. The petitioners have approached this Court against the said order.

3. We have heard the learned counsel for the petitioners and perused the pleadings and the documents. This seems to be another attempt to avoid the payment of the amount due and payable to the bank.

4. This petition, being devoid of any merits, is accordingly rejected.

CHIEF JUSTICE

S. A. BOBDE, J.